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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,940	09/05/2003	Jian Qin	KCC-19110	7009
7590	06/02/2006		EXAMINER	
Pauley Petersen & Erickson Suite 365 2800 West Higgins Road Hoffman Estates, IL 60195				EGWIM, KELECHI CHIDI
		ART UNIT	PAPER NUMBER	1713

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/655,940	QIN ET AL.	
	Examiner	Art Unit	
	Dr. Kelechi C. Egwim	1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 and 29-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21 and 29-35 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. Due to amendments and persuasive arguments by applicant, the previous rejections of record based on Mitchell et al., Qin et al. and Gartner et al. have been overcome and are hereby withdrawn.

Claim Rejections - 35 USC § 102/103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-21 and 29-35 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, 35 U.S.C. 103(a) as being unpatentable over Engelhardt et al., for reason cited in the previous action.

4. Claims 1-21 and 29-35 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, 35 U.S.C. 103(a) as being unpatentable over Herfert et al. (US 2005/0245393) or Inger et al. (US 2004/0071966)

In ¶ 35, 36 and 98, Herfert et al. teach superabsorbent materials treated with hydrophilic surface crosslinking solutions, including surface crosslinking alkoxysilyl compounds.

In ¶ 19 and 20, Inger et al. teach superabsorbent materials treated with hydrophilic surface crosslinking solutions, including surface crosslinking alkoxysilyl compounds.

While Herfert et al. and Inger et al. may not expressly teach the disclosed properties of the claimed materials, it is reasonable that the polymer alkoxysilyl superabsorbent materials of Herfert et al. and Inger et al. would possess the presently claimed properties since the composition of the treated superabsorbent materials in Herfert et al. or Inger et al. are essentially the same as the claimed composition and the USPTO does not have at its disposal the tools or facilities deemed necessary to make physical determinations of the sort. In any event, an otherwise old composition is not patentable regardless of any new or unexpected properties. *In re Fitzgerald et al.*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). See MPEP § 2112 - § 2112.02.

Even if assuming that the prior art references do not meet the requirements of 35 U.S.C. 102, it would still have been obvious to one of ordinary skill in the art, at the time the invention was made, to arrive at the same inventive composition because the disclosure of the inventive subject matter appears within the generic disclosure of the prior art.

Response to Arguments

5. Applicant's arguments filed 04/13/2006 have been considered but they are not fully persuasive.

6. Regarding applicant's argument that Engelhardt et al. "does not disclose or suggest a superabsorbent material treated with a solution including a hydrophilic soft polymer having an alkoxy silane functionality, as recited in Applicants' Claim 1", applicant is directed to col. 8, lines 17-21, where Engelhardt et al. teach the suitable alkoxy silyl surface post-crosslinkers.

Thus, the requirements for rejection are met.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1713

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kelechi C. Egwim whose telephone number is (571) 272-1099. The examiner can normally be reached on M-T (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KELECHI C. EGWIM PH.D.
PRIMARY EXAMINER

KCE

A handwritten signature in black ink, appearing to read "KCE".